

RULES OF THE COUNCIL

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Sec. 1. Initial Convening Of The Council.

A. When the time specified by law arrives for the first convening of the newly elected Council, the Mayor shall call the Council to order and shall appoint a temporary Clerk.

B. Prior to any other business, the oath of office shall be administered to the Council members by a person duly qualified to administer oaths. The oath having been administered, the Council shall then elect a Chair and Vice-Chair as provided by Sec. 3-5 of the County Charter. The Chair shall assume the position of the presiding officer immediately upon election.

Sec. 2. Meetings Of The Council.

A. Regular meetings of the Council shall be held in the Council Chamber at the County Building, Wailuku, Hawaii, on every first and third Friday of each month. If the regular Friday meeting date is a holiday or is in conflict with an important public event, the Chair may reschedule the regular meeting date

either for the prior business day or for the second business day following such Friday. The Council may reschedule a regular meeting for a different time, date and place within the same month.

B. Special meetings may be called at any time by the Mayor, the Chair or a majority of the Council. The Council shall request the attendance of the Mayor at all special meetings called by the Mayor. Unless waived by all members, written or oral notice of a special meeting, specifying the purpose of the meeting, shall be given to each member at least six calendar days prior to such meeting. Business of the Council at such special meeting shall be confined to the purposes so specified. Delivery of written notice either to a member's place of business or residence shall be deemed adequate compliance with this subsection. Oral notice shall be given to members individually, and may be given by telephone.

C. Emergency meetings shall be governed by Sec. 4-2.6 of the County Charter.

Sec. 3. Quorum And Vote; Exceptions Listed.

A. Five members of the Council shall constitute a quorum. The vote of at least five members shall be necessary to take any action, unless otherwise provided by law. In actions approving or disapproving mayoral appointments to boards and commissions, failure of a motion to approve shall constitute disapproval if five or more members vote against the motion; provided, that failure of a motion to disapprove shall not constitute approval.

B. An affirmative vote of at least six members shall be required:

1. To override the Mayor's veto (Charter Sec. 4-3.1 and Charter Sec. 4-3.2).

2. To find that an emergency exists due to a public calamity (Charter Sec. 4-2.6).

3. To retain or employ Special Counsel for any special matter presenting a real necessity for such employment (Charter Sec. 3-6.6).

4. To adopt revisions or amendments to the general plan, zoning ordinances or other land use ordinances proposed by the Council when the planning commission disapproves the proposed revision or amendment or recommends a modification thereof, not accepted by Council, or fails to make its report within the period of one hundred twenty days (Charter Sec. 8-8.6.2).

5. To amend or repeal initiative ordinances after one year from the certification of election results (Charter Sec. 11-7 and Charter Sec. 11-8).

6. To initiate amendments to the Charter by resolution adopted after two readings on separate days (Charter Sec. 14-1.1).

7. To override actions of the Mayor regarding the adoption, amendment or repeal of rules by the Board of Water Supply, within forty-five days of receipt by the Council (Charter Sec. 8-11.8).

8. To waive the requirement that personal property belonging to the County be disposed of through sale by auction or call for sealed bids (Maui County Code Sec. 2.72.050).

9. To find that it is in the public interest to dispose of real property owned by the County without public auction (Maui County Code Sec. 3.44.030).

10. To find that it is in the public interest to sell real property through negotiation (Maui County Code Sec. 3.44.050).

11. To find that an exchange of real property is in the public interest (Maui County Code Sec. 3.44.060).

12. To overrule a protest of the owners of land in a proposed improvement district against a proposed improvement involving sanitary sewerage or storm drainage facilities (Maui County Code Sec. 14.46.040).

13. To make changes or modifications in proceedings, acts, or reports relating to a proposed improvement district (Maui County Code Sec. 14.46.140).

14. To apply the proceeds from the issuance of County bonds for purposes other than those for which such bonds were initially issued (Hawaii Revised Statutes Sec. 47-6).

15. To approve a district boundary amendment if lands are identified as important agricultural lands (Maui County Code Sec. 19.68.040).

C. An affirmative vote of at least seven members shall be required:

1. To make emergency appropriations, upon written request by the Mayor (Charter Sec. 9-9.2).

2. To change by ordinance the purposes for which the capital improvement reserve fund may be expended (Charter Sec. 9-14).

3. To approve a change in zoning for which protests are filed with the planning commissions prior to or on the commissions' public hearing date by owners or lessees of forty percent or more of real estate

situated within a distance of five hundred feet from the nearest point of the real estate to be changed in zoning (Maui County Code Sec. 19.510.040).

D. An affirmative vote of at least two-thirds of the members present shall be required to hold an executive meeting closed to the public, provided that the affirmative vote constitutes a majority of the Council or of the particular committee. The reason for holding such a meeting shall be publicly announced. (Hawaii Revised Statutes Sec. 92-4.)

E. In the absence of a quorum, a meeting may not be convened except for the purpose of either recessing the meeting to another date, time, and location certain or publicly adjourning the meeting due to lack of quorum. Members who are absent from properly noticed meetings shall be subject to formal censure by the Council.

F. A majority of the Council may discharge a committee from further consideration of any matter.

Sec. 4. Officers And Their Duties.

A. The Chair shall be the presiding officer of the Council. In the absence or disability of the Chair, the Vice-Chair shall act as the presiding officer. In the event of the absence or disability of both the Chair and Vice-Chair, the Presiding Officer Pro Tempore shall act as the presiding officer. In the event of the absence or disability of these officers, a majority of the members present shall select a temporary chair.

It shall be the duty of the Chair in addition to those duties prescribed by law or by these rules of the Council:

1. To assign duties, not otherwise assigned by law or in these rules, to the County Clerk and the Director of Council Services.

2. To appoint all employees of the Council, except that full-time appointments shall be approved by the Council; provided, however, that the appointment of full-time Council executive assistants need not be approved by the Council.

3. To open all meetings of the Council at the appointed hour by taking the chair and calling the Council to order.

4. To call for the approval of the minutes of the preceding meeting when a quorum is present.

5. To maintain order and proper decorum.

6. To announce the business before the Council in the order prescribed by these rules.

7. To receive all communications and present them to the Council or a committee before which the subject matter is pending.

8. To dispose of matters properly brought before the Council, subject to appeal to the Council.

9. To authenticate by signature all acts of the Council.

10. To make known all rules of order when so requested, and to decide all questions of order and procedure subject to appeal to the Council.

11. To announce the result of any matter voted on by the Council.

12. To reasonably administer the receipt of oral and written testimony on Council agenda items.

13. To coordinate all legislative and intergovernmental meetings, functions and activities on behalf of the Council.

B. It shall be the duty of the County Clerk, in addition to those duties prescribed by law or by these rules of the Council:

1. To review communications, reports and other material received by the Council or its Chair, to prepare digests and compile necessary information, and to recommend disposition for Council action.

2. To read bills, resolutions, and other matters to the Council, as directed by the Chair.

3. To transmit upon receipt all communications or other matters to the proper parties.

4. To deliver to the appropriate committee all petitions, resolutions, bills or other matters, as may be duly referred to such committee.

5. To record all matters that come before the Council.

6. To make a list of all bills, resolutions, petitions, communications, and other matters set for consideration on particular dates.

7. To have charge of all records of the Council, including the journal and be responsible for the same; the journal of the Council shall consist of the minutes of the Council, communications and other business matters transmitted to the Council.

8. To serve in all matters as Clerk of the Council and to perform all clerical functions pertaining to such position as the Council shall from time to time direct, as well as other duties as shall by law or these rules, or rules thereafter adopted, be assigned.

9. To advertise digests of all bills passed on first reading, in an appropriate format, in a newspaper of general circulation in the County, at least three days before final reading by the Council.

10. To enter the objections of the Mayor in the journal of the Council upon receipt of bills returned disapproved and place such upon the agenda of the Council as directed by the Chair.

11. To certify ordinances.

12. To adopt rules for the classification, storage and destruction of all records of the County.

C. It shall be the duty of the Director of Council Services, in addition to duties that may be prescribed by law:

1. To manage the staff and activities of the Office of Council Services.

2. To develop organizational and staffing plans and budgets, pertaining to the Office of Council Services.

3. To plan, assign and supervise studies and research, compile data and prepare reports on projects requested by the Council, Council committees or individual Council members.

4. To plan and coordinate special meetings and conferences.

5. To assist the Council Chair in coordinating all legislative and intergovernmental meetings, functions and activities.

Sec. 5. Committees Of The Council.

A. The Council by resolution shall establish the standing committees and the composition of each standing committee.

B. The purpose of the committees is to expedite the business of the Council by permitting committees to go into details on specific matters and members should attend each committee meeting.

C. It shall be the duty of the standing committees to consider and make recommendations on all matters referred to such committees.

D. The Council shall select a chair and vice-chair of each committee. The chair of a committee shall call meetings and preside over the same. In the absence of the chair, the vice-chair shall preside. In the absence of both, a majority of the members present shall select a temporary chair.

E. A subcommittee within any standing committee may be created. The chair of the committee, subject to approval by a majority of the standing committee, shall appoint the chair and vice-chair of the subcommittee, shall specify the objectives of the subcommittee, and shall set a date on which the subcommittee shall be deemed dissolved. The chair of each subcommittee shall call meetings and preside at all meetings. In the absence of the chair and vice-chair, the subcommittee shall select a temporary chair. Subcommittees shall comply with the procedural requirements applicable to standing committees, to the extent practicable.

F. The Council may create any special committee as deemed appropriate. The Council shall appoint the chair, vice-chair and members of a special committee. The Council shall specify the objectives of the special committee, and shall set a date on which the special committee shall be deemed dissolved.

G. A standing committee, a subcommittee, or a special committee may hold an executive meeting closed to the public upon an affirmative vote, taken at an open meeting, of two-thirds of the members present; provided the affirmative vote constitutes a majority of the members to which the board is entitled (Hawaii Revised Statutes Sec. 92-4).

H. The Council may refer matters to a standing committee or special committee to allow an opportunity to interested persons to present written or oral testimony on any agenda item referred to the committee. In the case of proposed bills or resolutions having the force and effect of law, except for resolutions relating to the election, establishment, or appointment of the Council's officers, committees, or staff, the Council shall refer the matter to a standing committee and shall receive the committee's recommendation prior to first reading or adoption, respectively; provided, however, that the Council may waive this requirement by the affirmative vote of two-thirds of the entire membership of the Council. It shall be the duty of the chair of a committee to reasonably administer the receipt of oral testimony and to fix a time limit for each oral testimony.

I. The Council Chair may refer matters to committee if there is a time limit for Council action; provided, however, that the Chair shall concurrently place on the Council agenda a written notice to enable the Council to take such further action as it deems necessary.

J. The chair of a committee shall approve minutes of committee meetings in the current Council term. In the absence of the chair, the vice-chair

shall approve minutes. The Council Chair shall approve minutes of Council committee meetings that occurred prior to the current Council term.

K. At the request of three committee members, the committee chair shall convene a site inspection on a matter referred to that committee.

Sec. 6. Committee Reports.

A. To be placed on the Council agenda, committee reports must be submitted to the Clerk by the agenda deadline. Committee reports shall be signed by the chair of the committee. The vice-chair of the committee may sign in the absence or disability of the chair. In signing the report, the chair or vice-chair may write "with reservations" or, if they do not concur with the report, they may write "I do not concur".

B. Before being considered by the Council, committee reports shall be signed by a majority of the committee members. Members shall be allowed to sign a committee report "with reservations". In signing the report, members may write "with reservations" or, if they do not concur with the report, they may write "I do not concur". Members may also write "I do not concur" and sign next to individual items in a committee report.

Sec. 7 Voting And Recording Of Votes.

A. No member shall, on any account, refrain from voting unless excused by the Council, provided, however, that no member shall be permitted to vote upon any question in which the member shall have a pecuniary interest, or which will affect the member's right or title to a seat on the Council, or which involves the member's official conduct, except as allowed by law.

B. No member of the Council shall speak more than twice on any pending matter, except upon the majority consent of the other members. The movant of a matter shall not be permitted to speak in a reply to arguments of other members until every member choosing to speak shall have spoken.

C. Once the Chair calls for a vote, no member shall be permitted to explain the member's vote.

D. After the Chair announces the result of a vote, no member shall be allowed to change the member's vote.

E. The Clerk shall record the vote of each member upon the minutes of the Council.

Sec. 8. Roll Call.

A. The Clerk shall call the roll of members as required by the Chair.

- B. The Clerk shall announce the result of roll call votes.

Sec. 9. Agenda.

A. In order to be placed on the Council agenda, all petitions and other communications, except congratulatory and condolent resolutions presented by members of the Council shall be filed with the Clerk before 12:00 noon, seven calendar days prior to the regular meeting of the Council. Petitions and communications received later than said time shall be placed on the agenda of the following meeting.

B. The agenda for any regular meeting shall be made available to members of the Council seven calendar days prior to the regular meeting. The communications for any regular meeting shall be made available to the members of the Council by 3:30 p.m. three calendar days prior to the regular meeting.

Sec. 10. Order Of Business.

The following shall be the order of business, unless altered by majority vote of the Council:

- A. Roll Call
- B. Opening Prayer
- C. Pledge to the Flag
- D. Presentation of Written or Oral Testimony
- E. Minutes
- F. Reports
 - 1. Departmental
 - 2. Committee
- G. Petitions
- H. Communications
 - 1. County
 - 2. General
- I. Resolutions
- J. Ordinances

K. Unfinished Business

L. Announcements

Sec. 11. Attendance.

No member shall be absent from a meeting of the Council or a committee unless the member is unable to attend, and has informed the Chair.

Sec. 12. Amendments To And Suspension Of Rules.

A. No rule of the Council may be altered or rescinded, nor may any new rule be adopted, without a day's notice in writing having been given to each member. The amendment or rescission of a rule, or adoption of a new rule, under this provision shall become effective upon the affirmative vote of two-thirds of the Council.

B. These rules may be suspended by the affirmative vote of two-thirds of the entire membership of the Council.

C. These rules shall become effective upon adoption by the Council and shall remain in effect until January 2, 2007, twelve o'clock meridian, unless superseded earlier by new rules.

Sec. 13. Format On Bills And Resolutions.

A. Bills.

1. The enacting clause of every bill for an ordinance shall be "BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI".

B. Resolutions.

1. The enacting clause of every resolution shall be "BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF MAUI".

Sec. 14. Reporters.

Stenographers or press reporters shall be assigned to such places as will serve their purpose without interfering with the convenience of the Council.

Sec. 15. Rules Of Procedure.

The rules of parliamentary practice set forth in Robert's Rules of Order, Newly Revised, shall govern Council and committee meetings in all cases in which they are not inconsistent with law, or the rules of the Council and its committees.

Sec. 16. Testimony At Meetings And Public Hearings.

A. At a Council meeting or public hearing, the Council shall receive written or oral testimony pertaining to items on the meeting agenda or hearing notice.

B. Oral testimony shall be received during the testimony portion of the meeting or hearing. Persons wishing to provide oral testimony shall complete and submit a testimony form prior to testifying. The following procedure shall apply to oral testimony.

1. The Council shall receive testimony first from persons whose testimony forms are submitted before the meeting or hearing convenes. Each person shall be allowed to speak for three minutes on each item. For each item, at the end of three minutes, the Council Chair may allow a person an additional minute to conclude the testimony on the item. After all such persons have testified once, an additional three minutes per person, per item, shall be allowed to those who were unable to conclude the testimony.

2. Thereafter, the Council shall receive testimony from persons whose testimony forms are submitted after the meeting or hearing convenes, but before the testimony portion ends. Each person shall be allowed to speak for three minutes on each item. After all such persons have testified, the Council Chair may allow an additional minute per person, per item, to conclude the testimony.

C. Written testimony shall be received before or during the testimony portion of the meeting or hearing.

D. Nothing in this section shall diminish the responsibility or the authority of the Council Chair to maintain order and decorum.

Sec. 17. Council Travel.

A. All expenditures from the County Council (including the Office of Council Services and Office of the County Clerk) travel accounts shall be subject to prior approval by the Council Chair or a representative designated for such purpose.

B. The Council Chair shall require a report, as the Chair deems appropriate, from any officer or employee who expends public funds on off-island travel. Unless specifically required by the Chair, this requirement shall not apply to travel required to attend a meeting of the Council or a committee of the Council, or to travel required between a Council member's residence and the County Building, Wailuku, Hawaii.

Sec. 18. Video Conference Meetings.

Meetings held by video conference shall be held in accordance with Hawaii Revised Statutes Sec. 92-3.5.

Sec. 19. Filing of Items.

A. At the expiration of a Council term, all items pending before the Council and its committees shall be deemed filed and disposed of; provided that the following items shall be deemed referred to the Council Chair for the ensuing term, for consideration by the Council:

1. an item transmitted by another governmental agency to the Council, pursuant to a legal requirement, for Council action;
2. pending legislation that has passed only one of the required readings; and
3. subject to Council approval, items recommended for referral by the Council Chair for matters pending before the Council, and items recommended for referral by a committee chair with the approval of that committee for matters pending before that chair's committee.

B. This provision shall not prevent the resubmittal of any matter to the Council in a subsequent term, for consideration as a new item.

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